

Docket No.: 2360-0473PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kurt RYF et al.

Application No.: 09/879,187

Confirmation No.: 3997

Filed: June 13, 2001

Art Unit: 1793

For: METHOD FOR PRODUCING A
FUNCTIONAL, HIGH-ENERGETIC
MATERIAL

Examiner: J. E. McDonough

DECLARATION UNDER 37 C.F.R. § 1.132

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Ulrich Schädeli, do declare and say as follows:

1. I am a co-inventor of above-identified application.
2. I have read the Office Action dated March 6, 2008 in the above-identified application and understand its contents.
3. I have read and understand the contents of the reference cited in the Office Action dated March 6, 2008, which is U.S. Patent No. 3,108,916 (Coffee *et al.*; hereinafter "Coffee '916").

4. In the Office Action dated March 6, 2008, the Examiner states, in part: "Wherein a product appears to be the same or only slightly different, the properties recited appear to be inherent regardless of the method of preparation. The Office does not have the testing facilities to determine such." (see Office Action, page 2, lines 2-5 from bottom).

Also in the same Office Action, the Examiner states: "Applicants argue that the emulsion diffuse[s] to a depth of 100-500 microns into the surface. This is a property of the composition and since properties of a composition are inseparable from the composition itself, one skilled in the art would expect the same to happen for the reference composition absent any evidence to the contrary." (see Office Action at page 5, third full paragraph).

I address these points of the Office Action below and explain that the claimed diffusion is not an inherent property found in the cited reference of Coffee '916, and that the diffusion depth properties of the grain can be controlled.


5. The diffusion depth of the claimed grains can be controlled by varying the adding times, exposure times and/or pressure lowering moments. In other words, diffusion is not an automatic process without any controllable means.

It is also possible for one of skill in the art to generate diffusion depths below, e.g., 100 μm by varying the parameters mentioned above. Thus, the diffusion depth of an ingredient, such as an energetic plasticizer, is not an inherent property of the material, but is a result of a proper selection of process parameters. Further, simple disclosure of particular plasticizers and

deterrents as done in the Coffee '916 reference does mean one of skill in the art is actually controlling the diffusion depth of these ingredients into the grain.

6. I hereby declare that all statements made herein of my own knowledge are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 7/4/2008

By:  Ph.D. Program Manager
Ulrich Schädli R+D
(insert position/title)